

REMARKS

This is in response to the Office Action mailed on June 25, 2009. In that Office Action, claims 23-33 were rejected under 35 USC 112, first paragraph for allegedly lacking support for the limitation of "said drink being present at a temperature of at least 40 °C. Applicant submits that the specification provides more than adequate support for this limitation. For example, paragraph [0023] states that the carrier materials loaded with the flavoring agents are added to drinks, and that such drinks are usually present at a temperature of greater than or equal to 40 °C. Accordingly, applicant respectfully requests reconsideration and withdrawal of this rejection of claims 23-33.

Claims 23-33 were also rejected under 35 USC 103(a) as being unpatentable over U.S. Patent No. 6,235,274 (Lou) as applied to claims 23, 24, 26-28 and 31, and in further view of Wason as applied to claim 25 and in further view of U.S. Patent No. 2,513,813 as applied to claims 29-30, 32, and 33.

In the response to the non-final Office Action filed April 13, 2009, applicant argued that Lou does not anticipate the method of claim 23 since Lou disclosed performing additional steps which modify the particles and which would be considered necessary by those skilled in the art; but the Office Action responded by indicating that the method recited in claim 23 does not exclude the additional steps disclosed in Lou. As a result, applicant has currently amended claim 23 to recite that the method consists essentially of the recited steps along with other amendments to enhance readability. Accordingly, applicant submits that the additional steps disclosed in Lou are now excluded from the method recited in claim 23 as currently amended since these additional steps materially and substantially affect the novel nature of the method of claim 23.

Lou teaches the mixture of maltose and mannitol to be an essential component of the particles of Lou et al. and embedding the fragrance loaded silica particles in a molten mixture of maltose and mannitol followed by extrusion as an essential step in making such particles, with these features being necessary for achieving the claimed controlled, i.e. prolonged release of fragrance, see col. 3 line 14 to col. 4 line 23. There is nothing in Lou to suggest to a person skilled in the art that the fragrance loaded silica particles could provide a long lasting release of fragrance in the absence of the mixture

of maltose and mannitol. Based on these teachings of Lou, a person skilled in the art would not consider to use the fragrance loaded silica particles disclosed in Lou et al. for providing a long lasting release of fragrance without embedding them in the mixture of maltose and mannitol, because Lou teaches the use of such mixture as necessary for achieving the desired effect.

Also, performing the additional steps of embedding or encapsulating the particles in a solidified saccharide composition followed by an extrusion step are important and necessary steps which actually teach away from the method as recited in currently amended claim 23. Adding such steps to the method recited in currently amended claim 23 would materially affect this inventive method. Since Lou does not anticipate or make obvious the subject matter of newly amended claim 23, applicant respectfully requests reconsideration and withdrawal of the rejection of the claim 23.

Claims 24-33 depend from claim 23 and are allowable for at least the same reasons as claim 23 given above. Accordingly applicant, respectfully requests reconsideration and withdrawal of rejection of claims 24-33.

For at least the foregoing reasons, Applicant submits that the claims are in condition for allowance and a Notice of Allowance is respectfully requested.

It is believed that no fees are due with this response. However should any fees be required, the Commissioner is authorized to charge Deposit Account No. 50-1039 for any such fees.

Respectfully submitted,

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